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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,537	10/16/2003	Teresa P. Galan	4474-005	2119

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Gottlieb, Rackman & Reisman, P.C.  
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New York, NY 10016-0601

EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/688,537

Applicant(s)

GALAN, TERESA P.

Examiner

Bryon P. Gehman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/12/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 5-8, 16-19 and 22-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 5, line 2, "said inner space" lacks antecedent basis.

In claim 6, line 2, the parenthesized portion is improper and renders the context of the claim indefinite.

In claim 16, lines 1-2, "a front and a rear wall" fails to clearly and positively define a front wall and should be --a front wall and a rear wall--.

In claim 17, lines 1-2, "a first and a second leg" fails to clearly and positively define a first leg and should be --a first leg and a second leg--.

In each of claims 22 and 23, "said shell" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5 and 9-10 rejected under 35 U.S.C. 102(b) as being anticipated by Lees (2,467,138). Lees discloses a jewelry box comprising a shell (12) defining an

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interior space and having sidewalls made of a light transmissive (transparent) material, an insert (19) disposed within the space, a shelf (29) arranged within the insert and adapted to support a jewelry article and a cover (27) to close the space.

As to claims 3 and 9, the cover is also transparent and hingedly connected to the shell.

As to claims 5 and 10, the shelf includes a top web extending diagonally across the interior space and has two legs engaging opposite walls of the insert (see Figure 4).

5. Claims 1, 3, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Braun (2,919,023). Braun discloses a jewelry box comprising a shell (B) defining an interior space and having sidewalls made of a light transmissive (transparent or translucent) material, an insert (30) disposed within the space, a shelf (E) arranged within the insert and adapted to support a jewelry article and a cover (A) to close the space.

As to claims 3 and 9, the cover is also transparent or translucent and hingedly connected to the shell.

As to claim 5, the shelf includes a top web (38) extending diagonally across the interior space.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lees in view of either one of Kruger (4,646,920) and Rudnick et al. (5,062,526). Kruger and Rudnick et al. each disclose a jewelry shelf (10; 10; respectively) made of clear (transparent) material. To modify the shelf of Lees employing the transparent material teaching of either one of Kruger and Rudnick et al. would have been obvious in order to facilitate viewing of the jewelry article.

8. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lees in view of Braun. Braun discloses providing a jewelry box of translucent material. To employ translucent and transparent materials in combination is not seen to provide any new and unexpected result from what such a hodgepodge would be expected to produce, variable visibility of the components.

9. Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun in view of either one of Kruger and Rudnick et al.. Kruger and Rudnick et al. each disclose a jewelry shelf (10; 10) made of clear (transparent) material. To modify the shelf of Lees employing the transparent material teaching of either one of Kruger and Rudnick et al. would have been obvious in order to facilitate viewing of the jewelry article.

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As to claim 4, to employ translucent and transparent materials in combination is not seen to provide any new and unexpected result from what such a hodgepodge would be expected to produce, variable visibility of the components.

10. Claims 11, 13-15, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Braun in view of Brooks (1,937,868). Braun discloses a jewelry box comprising an enclosure (B) having an outer portion of translucent material, a shelf (30 or E) disposed in the enclosure to support a jewelry article and a cover (A) of light transmissive (transparent or translucent) material. Brooks discloses providing a jewelry box of differing colors to bring out contrast between the colors and make the jewelry box more noticeable. To employ the general concept to the jewelry box of Braun would have been obvious in order to render the jewelry box more noticeable, as suggested by Brooks.

As to claims 11 and 14-15, Braun discloses a shell (B) of light transmissive (transparent or translucent) material. Brooks further discloses an insert also of light transmissive material and having a color different than the other part of the jewelry box (see lines 60-69).

As to claims 21 and 23, Braun discloses the cover is also transparent or translucent and hingedly connected to the shell.

11. Claims 6-8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 13 above, and further in view of either one of

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Moss (1,641,861) and Lehmann (1,944,714). Moss and Lehmann each disclose a jewelry box wherein a cover (11; 20) is sized and shaped to form an interference fit with a shell (12; 22) and insert (22; 17). To modify the prior art of either Lees or Braun incorporating an interference fit between the cover and shell and insert as disclosed by either one of Moss and Lehmann would have been obvious in order to secure the shell to the cover and most efficiently employ the space of the box.

12. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 13 above, and further in view of Smith (483,399). Smith discloses a shelf (10) extending between and engaging front and rear walls of a jewelry box. To modify the prior art combination further employing the shelf teaching of Smith would have been obvious in order to secure the shelf within the enclosure.

As to claim 17, Smith discloses legs (at 10 in Figure 2 and 17).

As to claim 18, a Z-shape is formed at the shelf along 17-13-15.


13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are analogous jewelry boxes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bryon P. Gehman". The signature is fluid and cursive, with the first name being the most prominent.

Bryon P. Gehman  
Primary Examiner  
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BPG